

Bureau of Indian Affairs Western Region



Division of Transportation

Environmental Compliance as it Relates to the BIA and Tribal Lands

Chip Lewis

Environmental Protection Specialist

(Wildlife Biologist/NEPA Specialist)

SEPTEMBER 20, 2007

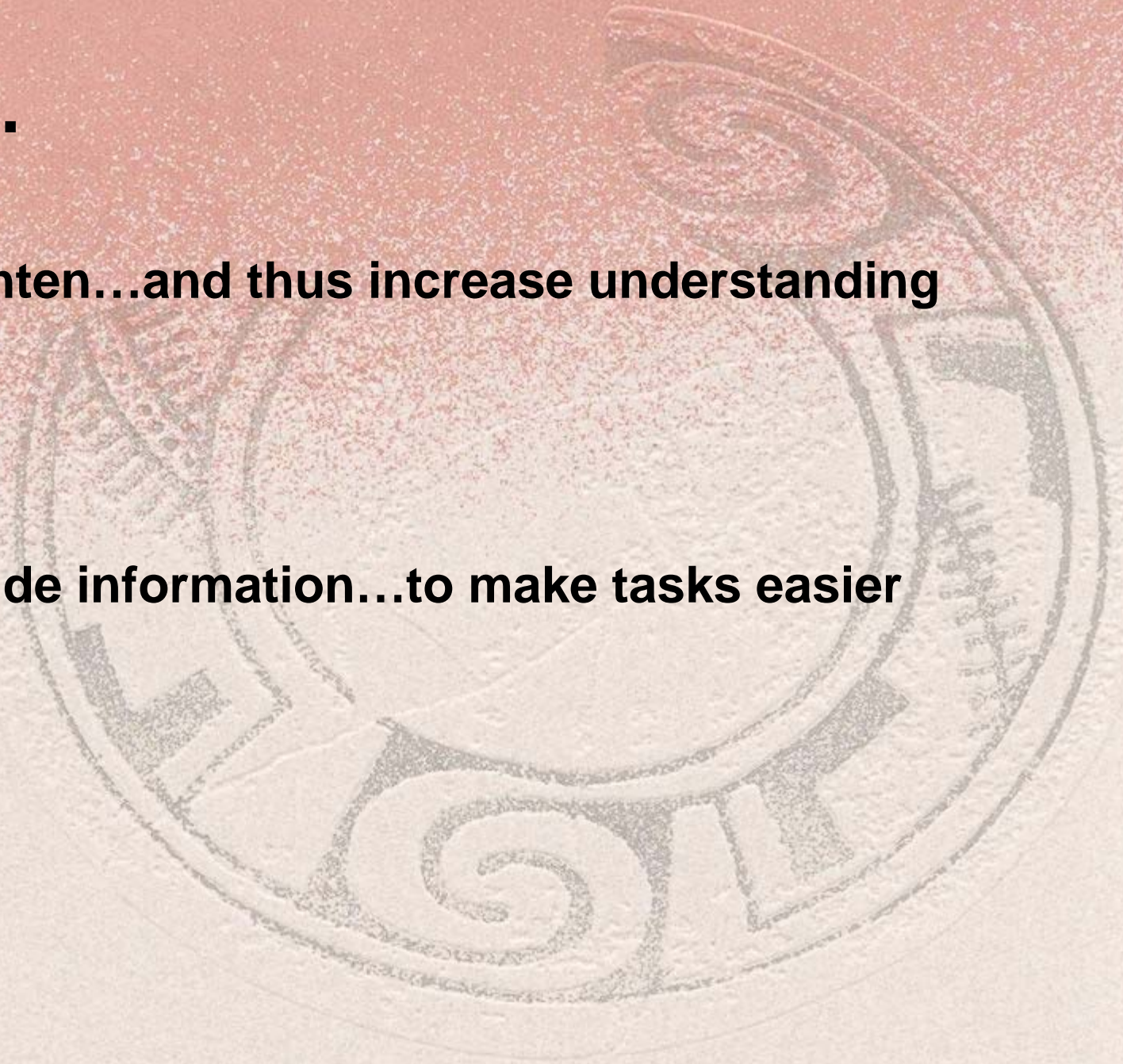
AGENDA & GOAL

- Introduction to BIA Organization/Structure
- Authorities & Mandates
- NEPA
 - Highlights!
 - Tribal Procedures & Personnel
 - Contacts
 - Lots of Handouts
 - Section 106/ARPA
 - Questions

GOAL...

To enlighten...and thus increase understanding

To provide information...to make tasks easier



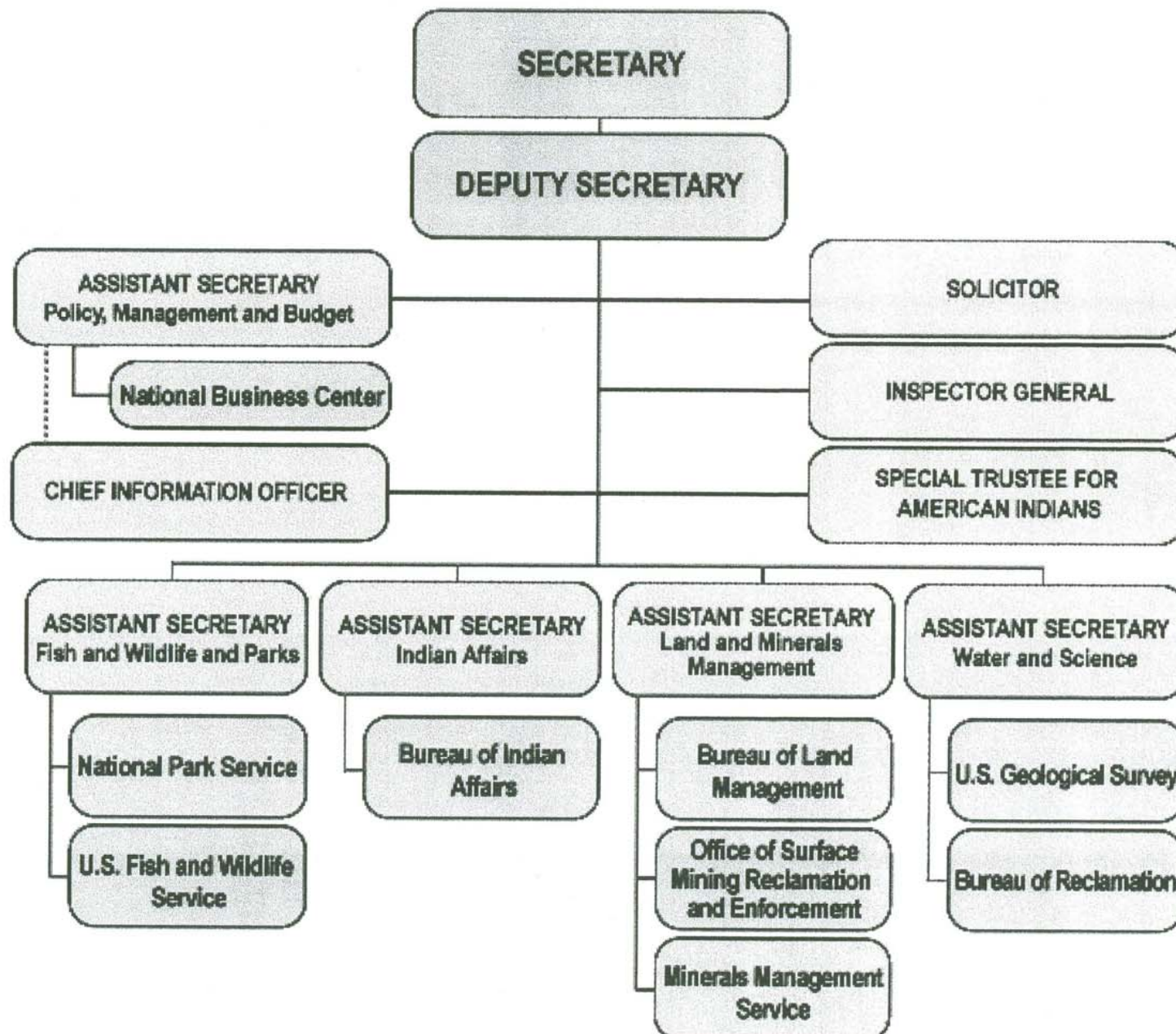
BIA/REGIONS/AGENCY ORGANIZATION

- Department of the Interior



U.S. Department of the Interior

Click on the office for more information

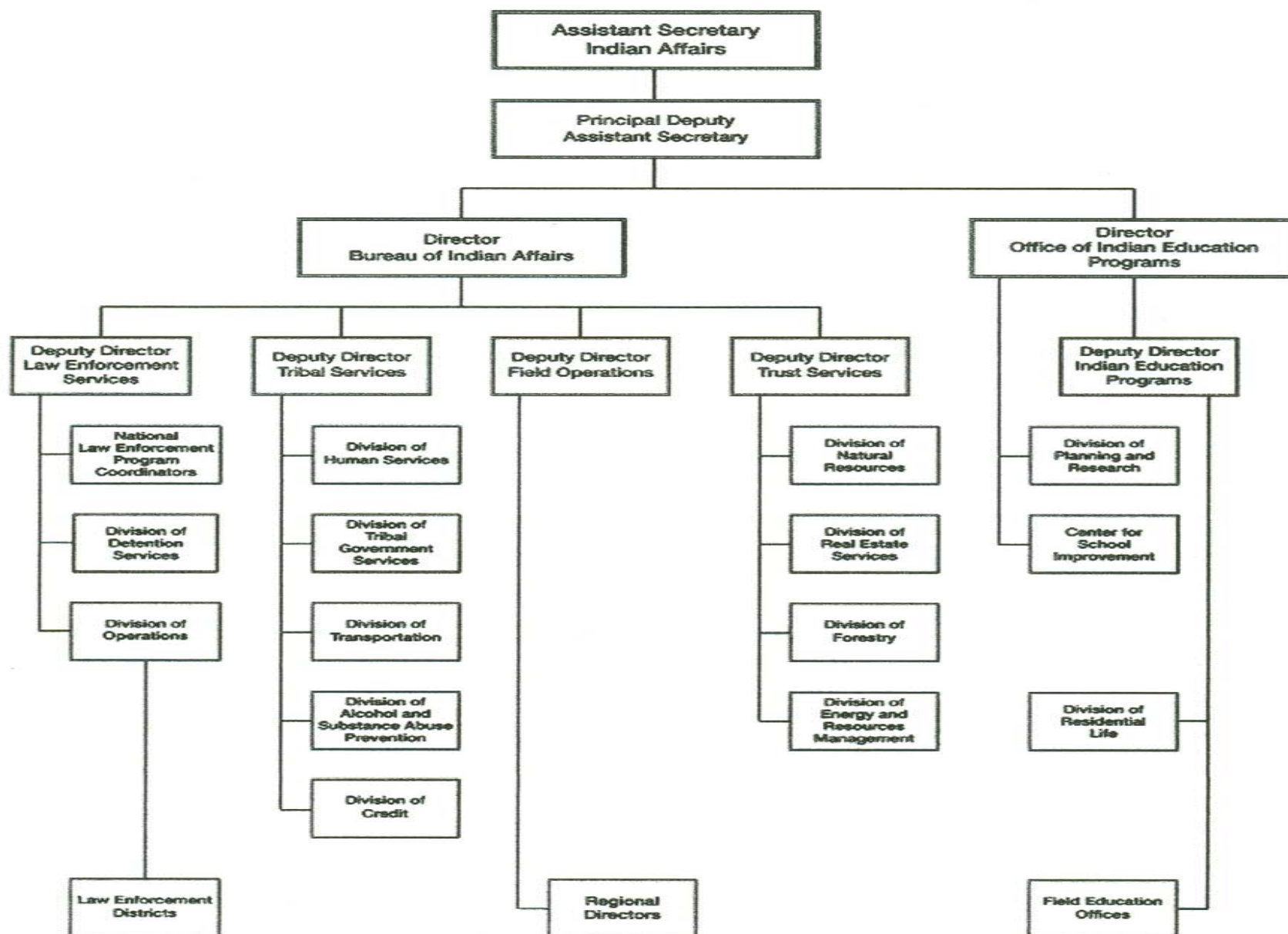


BIA/REGIONS/AGENCY ORGANIZATION

- Bureau of Indian Affairs



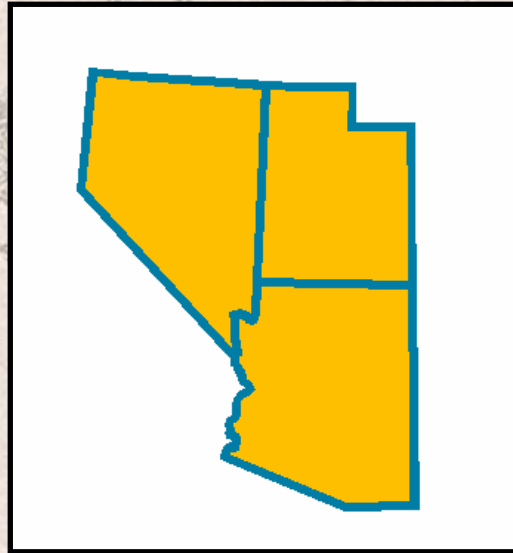
BUREAU OF INDIAN AFFAIRS



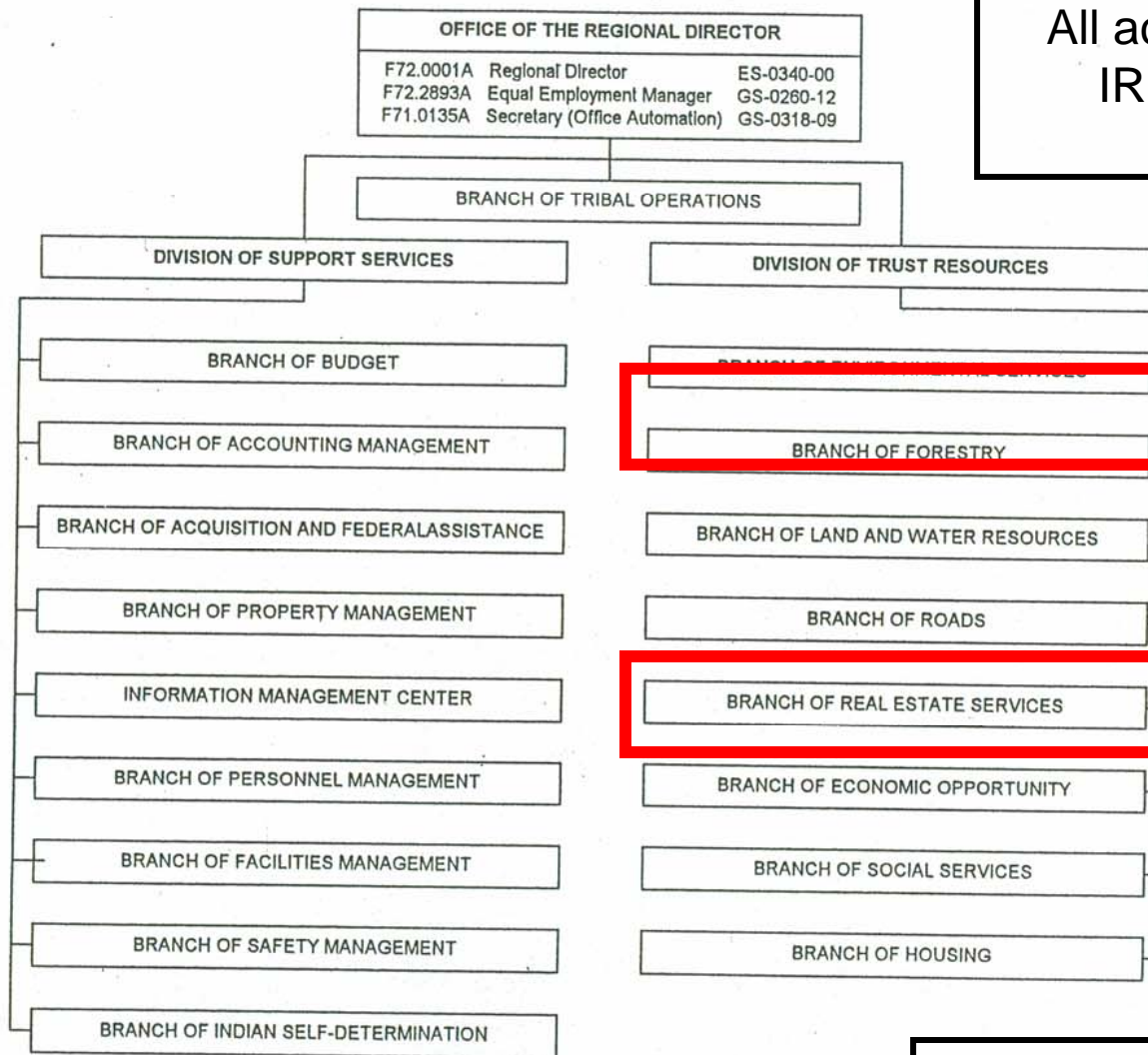
NOTE: Other Bureau Offices that report to Offices in the Office of the Assistant Secretary - Indian Affairs are described in 130 DM 9 and 130 DM 10.

BIA/REGIONS/AGENCY ORGANIZATION

- Western Region
 - Arizona – Utah – Nevada (excluding Navajo)



WESTERN REGIONAL OFFICE
PHOENIX, ARIZONA



All actions except
IRR Projects

My stuff – IRR Road
projects only

Acting REGIONAL DIRECTOR

[Signature]

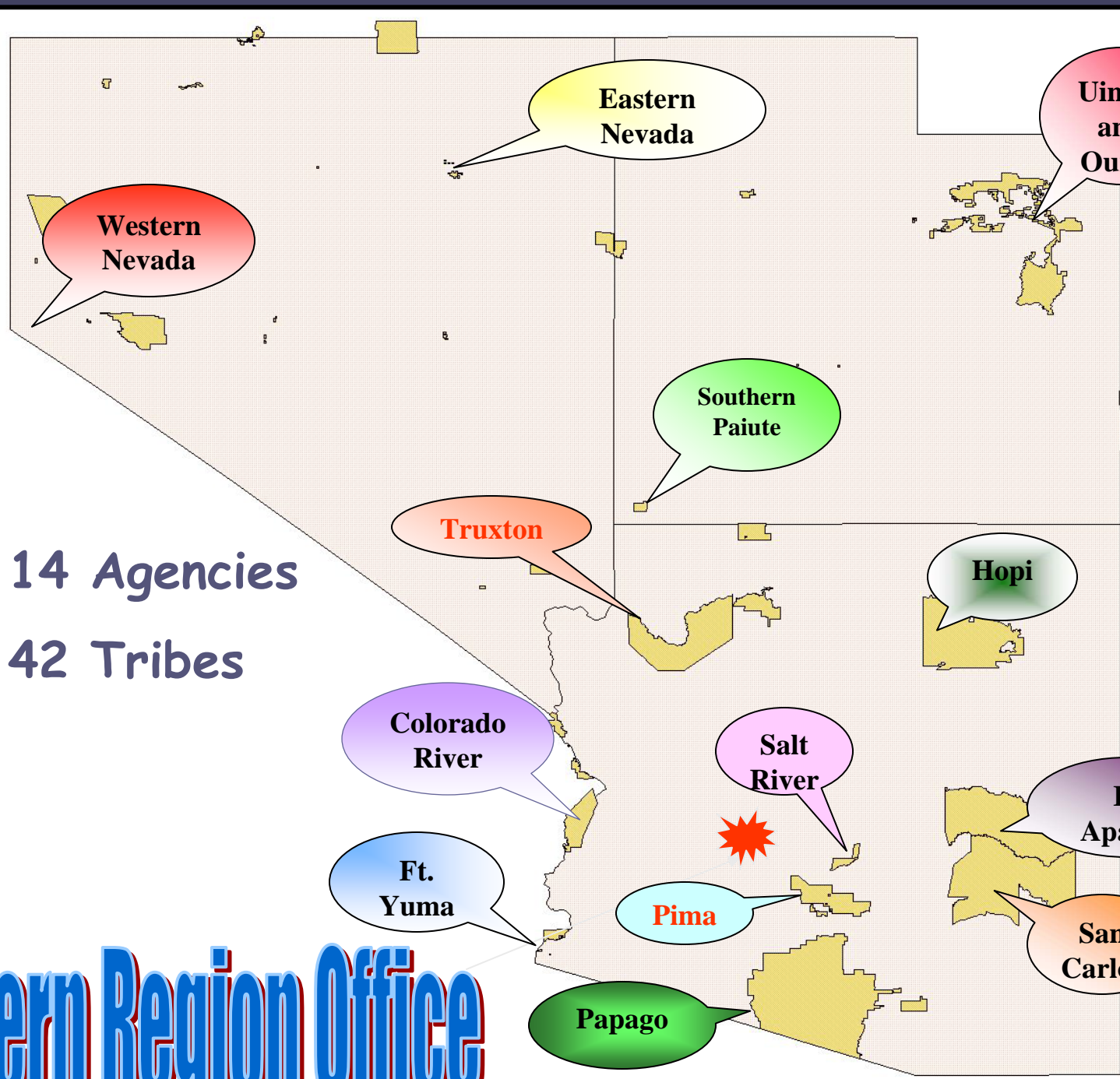
DATE 6/29/2000

Environmental Quality Services Branch

- **Amy Heuslein**
- Environmental Compliance Officer
- BIA-Western Regional Office
- 2 Arizona Center
- 400 N. 5th Street, 12th Floor
- Phoenix, AZ 85004
- (602) 379-6750

BIA/REGIONS/AGENCY ORGANIZATION

- DOI
- 12 BIA REGIONS
 - WESTERN REGION
 - 9 AGENCIES IN AZ (14 TOTAL)
 - 21 TRIBES (EXCLUDING NAVAJO) (42 TOTAL)



14 Agencies

42 Tribes

Western Region Office

AGENCY

- SUPERINTENDENT (INDIAN AGENT)
- DELEGATION OF AUTHORITY
 - Signatory authority
 - Signs most NEPA documents (usually not ROD)

AUTHORITIES/MANDATES

- CONSTITUTION
- TREATIES
- 5 USC
- 25 CFR INDIANS



atives, according to the Rules and Limitations prescribed in the Case of a Bill.

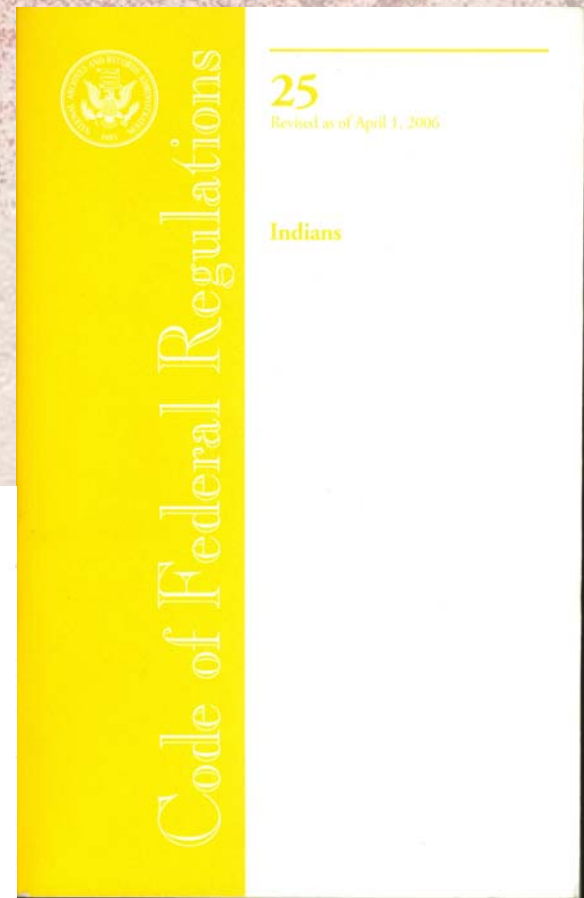
Section. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;



NEPA

- HANDBOOK-DOI AND BIA MANUAL
 - All the usual NEPA issues/items with emphasis on tribal specific issues such as sovereignty, resource use patterns, treaty rights (hunting & fishing rights in the northwest), TCPs, EO 3175, etc.

“AN EA MUST BE PREPARED FOR ALL BIA ACTIONS, EXCEPT THOSE COVERED UNDER 3.2 AND 3.3A”

3.2

- EIS- Normally required for the following:
 - Proposed mining contracts for:
 - New mines >640 acres
 - New surface coal mines >1,280 acres
 - Water development projects (large ones)
 - Hazardous waste storage/treatment facilities
 - Solid waste facility for commercial purposes

3.3A

- Interior and BIA Catex List
 - A. Operation, maintenance and replacement of existing facilities (Examples...road maintenance...)
 - F. Rights-of-Way
 - L. Roads and Transportation
 - M. Other (includes geotech)

EA Required!

- So...Manual says “An EA must be prepared for all Bureau actions, except those covered in 3.2 and 3.3A”
- Other Guidance: includes leasing, R/W, roads. May or may not need env., contact BIA. Old regs used to say “...normally requires an EA...”

Why was all of this important?....

Because of actions most common to both of us...

- Right-of-Way Acquisition
- TCEs
- Encroachment Permits

Catex vs. EA'S

- SCENARIO

- R/Ws
- TCEs
- ROADS (work in own right-of-way)
- Encroachment permits

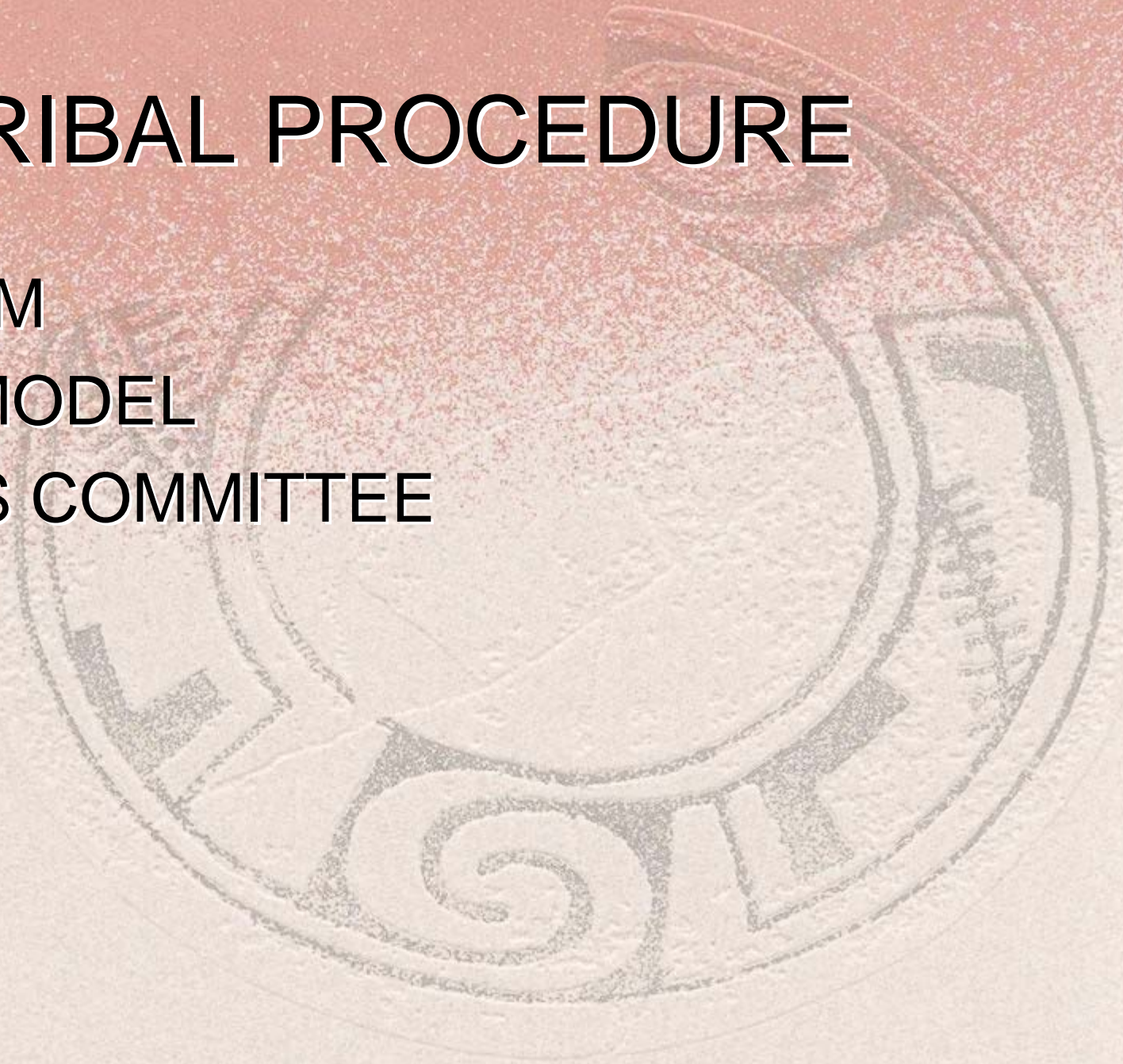
Encroachment Permits:

Needed only for roads that BIA has right-of-way on.

Stacey Begay – R/W Engineer
(602) 379-6782 for application.

TRIBAL PROCEDURE

- ID TEAM
- HOPI MODEL
- ROADS COMMITTEE



SCOPING/PUBLIC MEETINGS ON INDIAN LAND

- “Think outside the box”
 - Employ unconventional methods to reach the intended audience. Federal Register Notice or ad in prominent local newspaper not effective.
 - Use local Tribal/Native newspapers, radio stations, and
 - Handbills posted in gathering locations or delivered to the door.
 - As an agenda item at district level meetings.
 - Questionnaires.

TRIBAL CONTACTS

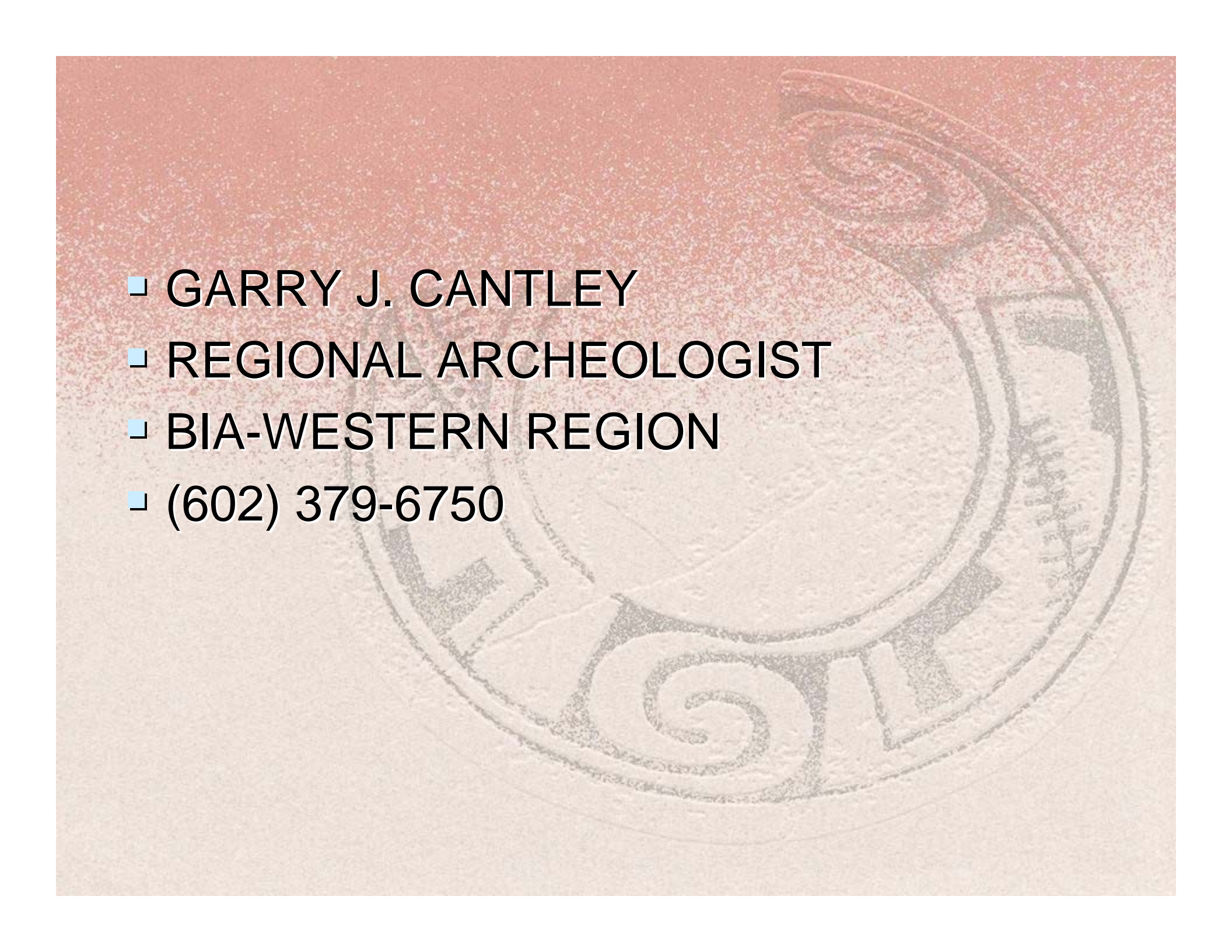
- Environmental
- Cultural Resources
- Tribal Government
 - Fulfill govt. to govt. relationship, but cc or otherwise send copies to the action party or final recipient.

SECTION 106/OUTSIDE ROW

- ESTABLISH LEAD CONSULTING PARTY
- TRIBES and BIA are Signatory Consulting Parties for all ADOT projects on Tribe's land that require new R/W acquisition.
 - Case by case within existing R/W, depending on whether NEPA/Arch, etc. already done.

INVENTORY/SURVEY

- CONTACT BIA FOR ARPA CONSULTATION (NON-COLLECTION)
- CONTACT TRIBE FOR ACCESS PERMIT
- REPORT SENT TO TRIBE AND BIA
- CONSULT WITH SHPO/THPO
 - WMAT
 - SAN CARLOS
 - HUALAPAI
 - GRIC AND OTHERS APPLYING

- 
- GARRY J. CANTLEY
 - REGIONAL ARCHEOLOGIST
 - BIA-WESTERN REGION
 - (602) 379-6750

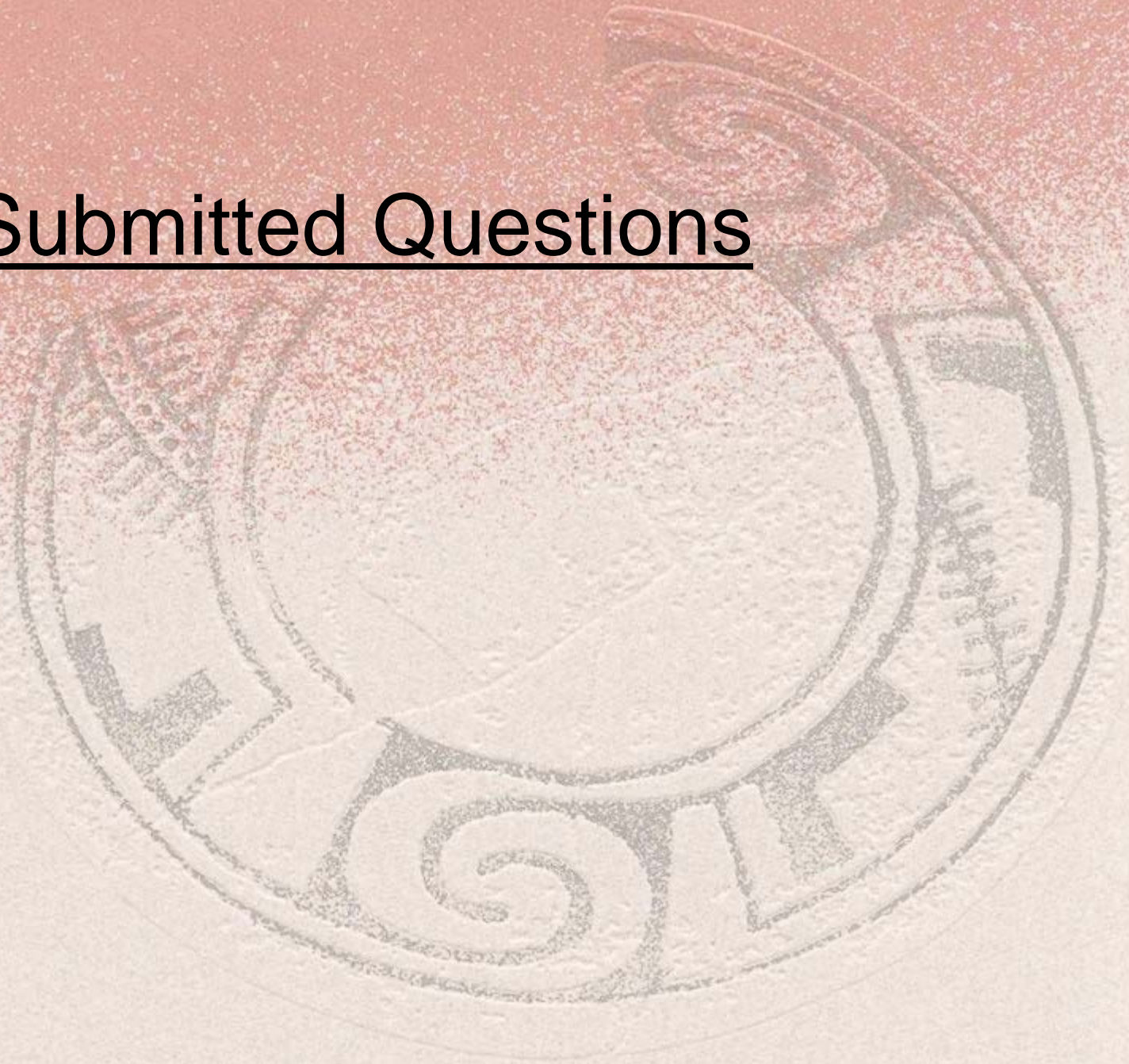
Extra Tidbits...!

Cobell vs. Interior

638ing

Compacting

Submitted Questions



Submitted Questions

Lead Agency Scenarios: BIA vs. FHWA?

- 1. BIA initiated using IRR Funds**
- 2. Tribally/Private initiated and funded and requested through BIA**
- 3. At the request of a Tribe or insistence through 638**

Submitted Questions

Differences in Environmental Documentation: BIA vs. FHWA?

NEPA is NEPA – Not much difference in EAs and EISs

**Topical differences [i.e. no 4(f) in BIA
Manual and no ITAs in FHWA
Guidebook]**

Categorical Exclusions are different!

Submitted Questions

Provide BIA/Tribal contacts!



Submitted Questions

Does BIA want to be involved in CE/ED document review? What is sufficient time for review? What about simpler projects?

It Depends!

Submitted Questions

Is there a list of resource topics not normally addressed by ADOT/FHWA that need to be included in ESs, CEs, EAs in order for BIA to adopt them? **YES**

Good examples of those write-ups? **Contact Me**

Are there BIA policy/guidance documents on what to include? **YES!**

Submitted Questions

Air Quality permit requirements – Are Tribal lands still exempt from county and state regulations?

YES



United States Department of the Interior

BUREAU OF INDIAN AFFAIRS
NATIONAL INTERAGENCY FIRE CENTER
3833 SOUTH DEVELOPMENT AVENUE
BOISE, IDAHO 83705-5354

100
400
440
Note 71
JK

August 27, 1998

Memorandum

To: All Area Directors
Attn: Fire Management

From: Chief, Branch of Fire Management

Subject: Tribal Air Rule

Stephen A. Maglund

BUREAU OF INDIAN AFFAIRS
RECEIVED
AUG 31 11 22 AM '98
PHOENIX AREA OFFICE

Attached, for information and dissemination is a copy of the Federal Register Notice regarding the final Tribal Air Rule (TAR) of the Clean Air Act (CAA). This rule sets forth the CAA provisions for which it is appropriate to treat Indian tribes in the same manner as states, establishes the requirements that Indian tribes must meet if they choose to seek such treatment, and provides for awards of federal financial assistance to tribes to address air quality problems.

Tribes are not required to implement CAA programs. A tribe may choose to implement only some programs, or may not implement any at all. If a tribe chooses not to implement a CAA program, the Environmental Protection Agency (EPA) has the responsibility to implement the program in the tribe's place. States do not have jurisdiction to implement CAA programs on tribal lands. Fire Management Officers should keep abreast of tribal or EPA efforts regarding an air quality program on lands which they have responsibility for. It will be very critical that the fire management program is actively involved with the tribe/EPA in the development of an air quality program. They will need to provide information on the areas that are to be treated with fire, air pollutant emissions estimates, and assistance in developing programs to track emissions, monitor air quality and visibility, and mitigate air quality impacts. Early input regarding fire use will be extremely important to avoid future conflicts with a tribal air quality program.

The Clean Air Act requires any challenges to nationally applicable rules to be filed in the United States Court of Appeals for the D.C. Circuit within 60 days of the date the rule was published in the Federal Register. It should be noted that six petitions for review of the TAR were filed by twelve different entities. These petitions have been consolidated by the court and will be treated as one case.

Please distribute this to the fire management programs and other appropriate individuals within your agency. This document may also be found on the internet at the following address:
<http://www.epa.gov/fedrgrstr/EPA-AIR/1998/February/Day-12/a3451.htm>.





GILA RIVER INDIAN COMMUNITY

ENVIRONMENTAL QUALITY ORDINANCES



Booklet Prepared by
Department of Environmental Quality
March 2004

Gila River Indian Community

wilson jones.

www.wilsonjones.com

W124502-TPM

1	PESTICIDE ORDINANCE 1983 AMENDED GR-04-96
2	BEEHIVES ORDINANCE GR-06-85
3	CONTROL & SUPPRESSION OF PINK BOLLWORM ORDINANCE GR-07-87
4	SOLID WASTE ORDINANCE GR-04-95
5	EPCRA – CHEMICAL EMERGENCY PLANNING & COMMUNITY RIGHT-TO-KNOW ORDINANCE GR-01-02
6	MEDICAL WASTE ORDINANCE 1993 AMENDED GR-04-02
7	TRIBAL IMPLEMENTATION PLAN FOR AIR QUALITY MANAGEMENT (PHASE I) GR-07-02
8	

Submitted Questions

Suggestions to speed up, streamline, make easier!

- **Early planning**
- **Patience & Persistence**
- **Build Relationships***
- **Know your tribe**
- **cc the intended recipient; follow up with phone calls**

New Questions & Discussion



Thank you!



Contact Info:

Chip Lewis

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BIA - Western Regional Office

Division of Transportation

2 Arizona Center, 12th Floor

400 N. 5th Street

Phoenix, AZ 85004

(602) 379-6782